

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**  
June 9, 2009

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No. 08-50591  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

TUAN MINH PHAM, also known as Chicken

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:07-CR-173-3

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Before DAVIS, GARZA and PRADO, Circuit Judges.

PER CURIAM:\*

Tuan Minh Pham was convicted of one count of conspiring to possess Ecstasy with intent to distribute and was sentenced to serve 180 months in prison. Pham now appeals his conviction and sentence. Pham first argues that the district court erred by rejecting his first plea agreement and by denying his motion for discovery. Pham also contends that the district court improperly relied upon information in his presentence report (PSR) when considering whether to reject his first plea agreement. Pham argues that the Government

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

acted improperly with respect to his first plea agreement. Pham waived these claims by subsequently entering an unconditional guilty plea. *See United States v. Smallwood*, 920 F.2d 1231, 1240 (5th Cir. 1991); *United States v. Bell*, 966 F.2d 914, 915-16 (5th Cir. 1992). We thus decline to consider them.

Pham contends that the district court erred by relying upon uncorroborated hearsay statements from his codefendants, which were contained in the PSR, at sentencing. Pham has shown no error in connection with the district court's decision to rely on the information contained in the PSR at sentencing. *See United States v. Mitchell*, 484 F.3d 762, 776 (5th Cir. 2007); *United States v. Caldwell*, 448 F.3d 287, 290 (5th Cir. 2006); *United States v. Young*, 981 F.2d 180, 186-87 (5th Cir. 1992).

The judgment of the district court is AFFIRMED.